ORIGINAL FILE

RECEIVED

DEC 29 1992

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Implementation of the Cable	)	
Television Consumer Protection	)	MM Docket No. 92-259
and Competition Act of 1992	)	

COMMENTS OF THE NATIONAL ASSOCIATION OF COLLEGE BROADCASTERS

The National Association of College Broadcasters ("NACB"), through counsel, and in response to the *Notice of Proposed Rule Making (FCC 92-499, released November 19, 1992)* ("NPRM"), hereby submits its Comments in the above-captioned Rule Making proceeding.

<u>Background</u>

1. NACB is a non-profit association that was initiated in 1988 in order to represent the interests of the college broadcasting community. NACB organizes national and regional conferences, publishes "College Broadcaster" magazine, and devotes its time and attention to the interests and needs of its 580 member radio and television stations and outlets, primarily licensed and/or operated by colleges, universities and schools. NACB members also include several hundred individual members of the educational and commercial media community that concern themselves with student electronic media. NACB's television membership includes both FCC-licensed broadcast stations, as well as cable access users

No. of Copies rec'd 0+5
List A B C D E

(PEG Channels) seeking to become over-the-air stations in the future.

The FCC's Definition of Qualified Local NCE Stations for "Must-Carry" Status <u>is Acceptable to the NACB</u>

2. Section 615 of the Cable Act of 1992 ("1992 Cable Act") provides that certain NCE television stations are entitled to must-carry privileges on cable systems in or near their service area. The Commission proposes that an NCE station will qualify for must-carry rights if it is licensed by the Commission as an NCE station and if it is owned and operated by a public agency, nonprofit foundation, corporation or association, and if that licensee is eligible to receive a community grant from the Corporation for Public Broadcasting ("CPB"). NACB strongly encourages the FCC to adopt the proposed definition, as further explained below.

3. With respect to NCE stations and translators operating outside the reserved NCE Channels, NACB recommends that the following criteria be required for invoking the must-carry rules:

(1) a noncommercial programming requirement of at least 50%;

(2) a firm pledge by the subject station that it will follow Commission guidelines on NCE underwriting announcement crediting, or risk loss of its must-carry rights; and,

(3) the station is operated by an entity that qualifies for NCE status.

The Commission's Definition of
"Substantial Duplication" Requires Modification

4. The 1992 Cable Act directs the Commission to define "substantial duplication" in a manner that promotes access to distinctive NCE television services. Accordingly, the Commission proposes that a station will be deemed to "substantially duplicate" the programming of another station if more than 50 percent of its weekly prime time programming consists of programming aired on the other station. *See, NPRM at paras. 11 and 12.* NACB believes that the proposed definition is overly burdensome.

5. NACB believes that the benchmark percentage be reduced to 25%. Because of the high costs of programming, the low budgets of NCE stations, and the fundraising restrictions imposed upon NCE stations compared to their commercial counterparts, NACB believes that the proposed 50% benchmark is too high. Rather, NACB submits that if a station's schedule is comprised of 25% original and unique programming, a valuable service is still being offered to the public./[1]

[1] NACB concedes that if the same programming is broadcast in a different time slot by another NCE station entitled to must-carry on the cable system, such programming should not be counted towards the 25% benchmark.

Cable Systems Must Reserve Channels
for PEG Programming

6. The 1992 Cable Act provides that a cable operator may place additional required NCE stations on unused public, educational and governmental ("PEG") channels. NACB believes that it is vital to the survival of NCE television that cable systems with at least a 30-channel capacity be required to reserve at least 10% of their channel capacity for PEG programming./[2]

7. Of all types of television programming, PEG best represents the public-at-large since much lower budgets are required to produce PEG programming and run PEG channels, compared to an over-the-air NCE, CPB qualified station. Thus, PEG programming is a more participatory and democratic form of programming. It is no surprise that PEG is the fastest growing segment of non-commercial television today.

8. NACB would welcome the opportunity to work with the National Federation of Local Cable Programmers to develop formal guidelines for PEG qualification, as well as

---

[2] With technological advancements increasing cable capacity (i.e., TCI's 500-channel system planned for later this decade), there is no reason not to require cable systems to immediately provide access channels to qualified PEG users as they step forward. *See,* *Attachment No. 1: "TV's Brave New World," article in The Washington Post (printed December 26, 1992).*

programming standards to the extent necessary to implement the spirit of the 1992 Cable Act./[3]

LPTV Stations Require Serious Consideration
Under the 1992 Cable Act

9. To the extent that the NPRM invites comment regarding the qualifications criteria for cable carriage of Low Power Television ("LPTV") Stations, NACB offers the following suggestions. Like their NCE and PEG counterparts, college/school-based LPTV stations offer programing that is unique in their markets. Thus, NACB would welcome the opportunity to work with the Community Broadcasters Association to develop formal qualifications criteria guidelines for the must-carry of LPTV programming.

10. The NPRM at Paragraph 27 indicates that "an LPTV station will not be 'qualified' unless the Commission determines that the provision of programming by such station would address local news and informational needs that are not being adequately fulfilled by full power television stations because such full power stations are distant from the LPTV station's community of license." NACB believes that such qualifications criteria are much too narrow --- LPTV stations at educational institutions offer unique programming that

[3] NACB submits that these guidelines would also apply to all future PEG candidates who do not currently qualify but may become qualified in the future.

deserves carriage even though they may not appear to qualify pursuant to the Commission's proposed guidelines.

Conclusion

NACB submits these Comments in an effort to ensure the long-term survival of cable carriage of NCE television.

Respectfully submitted,

NATIONAL ASSOCIATION OF COLLEGE BROADCASTERS

By: ______________________
Cary S. Tepper, Esq.
Its Counsel

Cary S. Tepper, Esq.
Meyer, Faller, Weisman & Rosenberg, P.C.
4400 Jenifer Street, N.W., Suite #380
Washington, D.C. 20015

(202) 362-1100

December 29, 1992

NACB Comments
ATTACHMENT No. 1

THE WASHINGTON POST
SATURDAY, DECEMBER 26, 1992

TV's Brave New World

500 Cable Channels On Video Horizon

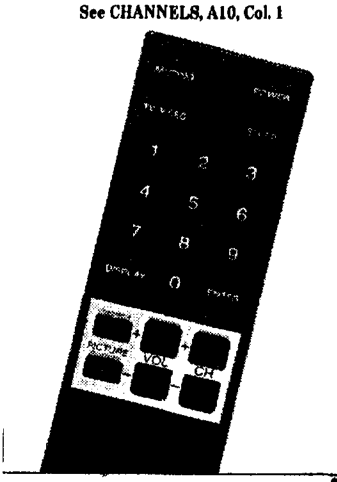
By Paul Farhi
Washington Post Staff Writer

If the prospect of 500 channels of television isn't daunting enough, consider this: A viewer who spends five seconds "grazing" through each program would need almost 42 minutes just to see what's on. By then, of course, many of the programs will have changed.

Might as well get used to it: The Age of Video Overload is at hand. In recent weeks, two major companies have signaled the impending deluge. Bell Atlantic Corp., the phone company, announced in October that it will test a "video on demand" system in Arlington next year that will give viewers instantaneous access to a library containing hundreds of programs. Bell Atlantic plans to use its ubiquitous phone lines to transport the images to households, where a separate wire and set-top computer will load them into home TV sets.

Meanwhile, the nation's largest cable TV company, Tele-Communications Inc. (TCI), said earlier this month that it will begin employing "digital video compression technology," which promises to turn a conventional 50-channel system into a

See CHANNELS, A10, Col. 1



CHANNELS, From A1

brawny 500-channel monster. TCI, which owns the District's cable system, will begin marketing the technology in early 1994.

And these are merely interim steps. Video visionaries say it will be possible—within two years—to create a virtually infinite number of TV channels by combining digital compression with high-capacity fiber-optic wires and computerized switching devices that quickly can route huge amounts of electronic traffic.

The joining of these technologies seems likely to transform information, communication and entertainment systems in the home. Because all the electronic information moving in and out of the home is likely to be digitized—that is, expressed in the electronic language of computers—conventional equipment such as TV sets and phones someday could give way to a gadget that is part high-definition TV, part powerful computer, part video telephone, part compact disc-quality stereo, part something yet undreamed of.

By itself, the advent of maximum TV is as dazzling and disconcerting to those in the media and telecommunications industries as it presumably will be to viewers. The explosion of TV channels figures to reorder the economic landscape, observers say, though precisely how is unclear.

Some suggest that movie theaters and video-rental stores could lose out as customers stay home and pick from among hundreds of pay-per-view films, or that the traditional broadcast networks and even the newer cable networks such as CNN could see their audiences crumble as choices expand.

More dramatic still is the prospect that whole industries—cable, phone, television and movie production—eventually could merge or ally to feed the vast video maw and its offshoots more efficiently and profitably.

"The old models . . . don't apply any longer," said Arthur Bushkin, president of Bell Atlantic Information Services, which is conducting the company's video-on-demand test. "Technological evolution is piercing the barriers between industries. The ultimate beneficiary is going to be the consumer."

But important questions remain unanswered. Despite talk of hundreds of pay-per-view movies and dozens of sporting events, no one is really certain what's going to fill up all those channels—or even whether anyone really wants so much TV.

The march of television technology also raises social concerns: Will audiences become so fragmented that television's already dwindling ability to provide a common cultural reference point vanish entirely? Will the benefits of the new TV age belong only to those who can afford to pay for them? Does more TV mean better TV?

"Television has always been like the juvenile delinquent that everyone says will eventually grow out of it and become a good boy," said New Yorker magazine writer Bill McKibben, author of "The Age of Missing Information," a critique of TV. "Well, the boy is 40 years old now, and there's no real sign that promised day is coming. . . . The more channels we've gotten the more we're aware of how little there is to watch."

Or as a high-ranking executive at one of the Big Three networks put it last week, "As it is, we have trouble getting three hours of quality shows" each night.

Nevertheless, media experts suggest the coming channel explosion will change both what's on TV and the ways people watch it. They say viewers can watch for the following:

▪ **Greater specialization.** Just as cable TV introduced viewers to "niche" channels (one devoted exclusively to music videos or sports or news, etc.), new channels (or new programs) are likely to resemble magazines or radio formats in their narrow focus. Specialized financial programming, foreign-language shows or single-subject sports networks (The All-Redskins Channel?) could stimulate just enough consumer interest to sustain them.

"There are a zillion entrepreneurs who are seeing an opportunity for their idea to become a channel, and it seems about half of them have called us in the past two weeks," said TCI's Bob Thomson. Among the ideas TCI has received: all-environmental channels, video classified-ad channels and ethnic services such as the Irish Channel.

Tom Rogers, president of NBC's cable division, said entirely new channels will be slow in coming because of the enormous cost and uncertain chances of attracting a large audience. But viewers will be able to select more individual programs and pay for them accordingly: Apart from a basic service fee and equipment charge, both TCI and Bell Atlantic said additional programs will be sold on an a la carte basis. "We're moving from free TV to pay TV to transaction-based TV," Rogers said.

This evolving specialization both threatens and aids advertisers, said Paul Schulman, who heads a self-named company that buys air time for such TV advertisers as Ralston Purina Co. and ITT Corp.'s Sheraton hotels chain. A movie studio that is opening a new film or a company that is selling soap will find it more difficult to reach a mass audience efficiently as choice expands, Schulman said. At the same time, however, "targeting" particular customers will become easier: Anyone who wants to market a yacht, for example, will zero in on viewers of the Boating Channel.

▪ **More flexibility.** Some channels simply will provide the ability to "time shift"—to watch "Roseanne" or "Cheers" at a time other than when the program originally aired. Thus, Channel 273 might be used to air continuous repeats of last week's episode of "L.A. Law."

Additional channel capacity also could allow viewers to become their own directors, choosing camera angles during sporting events. A Montreal cable operator, Videoway Communications, already offers this service during telecasts of Expos baseball games. Different pictures of the same game are telecast on separate channels, permitting fans to jump back and forth among a close-up of the batter or a continuous shot of the scoreboard.

It also may permit a viewer to "skim" a particular program—to fast-forward and rewind during the show, like browsing through a book, said Eli M. Noam, a professor of economics and director of the Institute for Tele-Information at Columbia University.

This will require some kind of video storage and retrieval device, a sort of super videocassette recorder. NBC, in partnership with International Business Machines Corp. and NuMedia Inc., an Alexandria-based company, will test a similar device in a system that allows retrieval of TV news clips on a personal computer.

▪ **New services.** Much as the advent of the personal computer inspired creation of add-on "peripherals," the coming channel expansion also is spurring development of new hardware.

Several on-screen services—in effect, channels of channels—already exist, and other, more sophisticated versions are being developed. Discovery Communications Inc., the Bethesda-based parent of the Discovery Channel and the Learning Channel, recently announced that it will form a venture to create a special remote control to help viewers navigate the channel maze. The remote device, coupled with the proper software, would make it possible to scan program offerings sorted into 11 categories—"hit movies", "documentaries," "digital music services," etc.

Meanwhile, nearly 40 companies, from IBM to TV Answer Inc., a Reston start-up company, are racing to develop an array of interactive TV systems that allow consumers to order goods, play electronic games at home or automatically program their VCRs via cable, phone or over-the-air hookups.

Noam foresees the invention of a "smart box" that could be programmed to automatically alert viewers when programs tailored to their personal interest are scheduled. It might, he said, let a viewer know about the opera special on Channel 77 or the mud wrestling tournament on Channel 88, depending on what the smart box was told to look for.

What could change most of all is the content of the TV programs themselves.

With so many offerings competing for a viewer's attention, Noam and his colleague, Douglas A. Conn, have written that programs "will become shorter, more modular, with more recognizable situations and characters. . . . Complexity declines, pace increases, and attention span shortens. When presidential candidates must compress their messages into seconds, can an entertainment program claim our attention for hours?"